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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 HENRY PEI,

10 Plaintiff,

11 v.

12 DONG FENG WANG, et al.,

13 Defendants.
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Case No. C19-926-RSM

ORDER SETTING DEADLINE TO
EFFECT SERVICE ON FOREIGN
DEFENDANTS

15 This matter comes before the Court *sua sponte*. Plaintiff Henry Pei, proceeding *pro se*,
16 filed his Complaint on June 14, 2019, against Defendants Dong Feng Wang, Qin Xu, Ke Zhi
17 Zhao, and Qing Wei Zhang. Dkt. #1. It appears that all four defendants reside in China. *Id.* at
18 4. On August 5, 2019, Plaintiff moved for an extension of the initial disclosure deadlines by four
19 to five weeks due to a problem with delivering the summonses to China. Dkt. #3. On August 13,
20 2019, the Court granted Plaintiff's motion to extend the initial disclosure deadlines and extended
21 the deadline for the Rule 26(f) discovery conference to November 20, 2019, initial disclosures to
22 November 27, 2019, and the Joint Status Report to December 4, 2019. Dkt. #4.
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24 On October 9, 2019, Plaintiff filed a notice to the Court indicating that he traveled to
25 China with friends in an effort to serve Defendants but was unsuccessful. Dkt. #5 at 1 ("[T]hey
26 refused to meet me. All the places they go were guarded by police. I was not able to deliver the
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1 summons.”). He also explains that he tried to hire a local law firm to serve Defendants, but the
2 law firms were afraid to take the case. *Id.* On October 24, 2019, Plaintiff filed another notice to
3 the Court attaching his original pleading and advising that because “me and my Chinese attorney
4 were threatened, we failed to deliver the summons despite our best effort.” Dkt. #6 at 1. On
5 December 2, 2019, Plaintiff filed a second notice to the Court identical to his earlier notice on
6 October 24, 2019, Dkt. #6, explaining that he failed to deliver the summonses due to threats and
7 advising of his intention to attend conferences scheduled by the Court in November and December
8 2019. Dkt. #8. The Court clarifies that no conferences have been set in this matter, and the dates
9 set forth in its scheduling order, *see* Dkts. #2, #4, refer to deadlines to file initial disclosures—not
10 conferences held at the courthouse.
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13 As of the date of this Order, no defendant has appeared in the case. Based on the record,
14 Plaintiff has failed to properly serve Defendants. Plaintiff is advised to review the requirements
15 in Federal Rule of Civil Procedure 4(f) for service on defendants located outside the United States.
16 Under Rule 4(m), service is required within 90 days after the Complaint was filed in this case,
17 after which dismissal of the case is appropriate. Fed. R. Civ. P. 4(m). However, the 90-day
18 deadline set forth in Rule 4(m) does not apply to service in a foreign country. *See id.* (“This
19 subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or
20 4(j)(1)”). *See also Lucas v. Natoli*, 936 F.2d 432–33 (9th Cir. 1991) (“[T]he plain language of
21 [Rule 4(m)] makes the [service deadline] inapplicable to service in a foreign country.”) Because
22 Rule 4(f) does not impose any specific time limits, courts have found that there is no specific
23 deadline for service of foreign defendants. *Sport Lisboa e Benfica - Futebol SAD v. Doe 1*, No.
24 CV 18-2978-RSWL-E, 2018 WL 4043182, at *4 (C.D. Cal. Aug. 21, 2018).
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1 However, “the amount of time allowed for foreign service is not unlimited.” *Nylok Corp.*
2 *v. Fastener World Inc.*, 396 F.3d 805, 807 (7th Cir. 2005). For that reason, where necessary, a
3 court “may set ‘a reasonable time limit for service in a foreign country to properly manage a civil
4 case.’” *Sport Lisboa*, 2018 WL 4043182, at *4 (quoting *Baja Devs. LLC v. TSD Loreto Partners*,
5 NO. CV-09-756-PHX-LOA, 2009 WL 2762050, at *1, 2009 U.S. Dist. LEXIS 83268 at *3 (D.
6 Ariz. Aug. 28, 2009)). Where there is a reasonable prospect that service may yet be accomplished
7 and there is no unfair prejudice to the defendant, a court should allow the plaintiff to effect proper
8 service. *DiMaio v. Cty. of Snohomish, Dep’t of the Sheriff*, No. 17-0128JLR, 2017 WL 3288177,
9 at *4 (W.D. Wash. Aug. 2, 2017) (citing *Umbenhauer v. Woog*, 969 F.2d 25, 30 (3d Cir.1992)).
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11 Here, this case has been pending since June 14, 2019. Plaintiff has failed to adequately
12 explain how he has attempted to serve Defendants since returning from China, including the
13 manner of service attempted and the dates he attempted service. It therefore remains unclear to
14 the Court to what extent Plaintiff has made or continues to make good faith efforts to serve
15 Defendants in a timely manner. *See Baja Devs. LLC*, 2009 WL 2762050, at *2 (setting service
16 delay after plaintiff’s unexplained delays in serving defendant). The Court will not, at this time,
17 order Plaintiff to explain his service attempts. However, the Court will impose a reasonable time
18 limit for accomplishing service of process on Defendants. Specifically, the Court directs Plaintiff
19 to accomplish service within **ninety (90) days** from the date of this Order. If Plaintiff is unable
20 to accomplish service by the 90-day deadline, he shall file a Response detailing his efforts to serve
21 Defendants. This Response shall not exceed **six (6) pages**. If Plaintiff is unable to serve
22 Defendants within ninety (90) days and fails to file a Response that adequately explains his efforts
23 to effect service, the Court will dismiss this case at that time for failure to serve.
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1 Accordingly, it is hereby ORDERED that Plaintiff shall either serve Defendants within
2 **ninety (90) days** from the date of this Order or, alternatively, file a Response containing the detail
3 set forth above.

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5 DATED this 6th day of December 2019.

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8 RICARDO S. MARTINEZ
9 CHIEF UNITED STATES DISTRICT JUDGE
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